

**CONTRACT**  
**by and between**  
**Shelby County Government**  
**and**  
**MEDFAC ENGINEERING, LLC**  
**for**  
**ENGINEERING SERVICES FOR ELEVATOR MODERNIZATION**  
**AT 157 POPLAR AVENUE**

This contract (the "Contract") entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between SHELBY COUNTY GOVERNMENT, hereinafter referred to as "COUNTY" and MEDFAC Engineering LLC, hereinafter referred to as "CONSULTANT".

**WITNESSETH**

**WHEREAS**, the COUNTY issued Request for Proposal # 10-10-24 for Shelby County Office Building - 157 Poplar Avenue – Engineering Services for Elevator Modernization hereinafter in this Contract referred to as "PROJECT"; and

**WHEREAS**, said CONSULTANT submitted a bid/proposal in accordance with bid specifications, a copy of which is attached hereto as Exhibit "B" and incorporated herein by reference, of which said bid was accepted by COUNTY.

**NOW THEREFORE**, for and in consideration of mutual promises and covenants herein contained, CONSULTANT agrees to provide Engineering Services for Elevator Modernization at the Shelby County Office Building – 157 Poplar Avenue, Memphis, Tennessee, in accordance with the bid specifications which are on file in the Shelby County Purchasing Department and which are incorporated herein by reference at the price quoted for said PROJECT by CONSULTANT.

**I. SCOPE OF WORK**

1. The CONSULTANT shall provide the services as outlined within the Scope of Work attached hereto as Exhibit "A" and incorporated herein by reference as if stated verbatim (the "Services").

**II. TERM AND COMPENSATION**

1. The term of this Contract (the "Term") will commence upon the execution of this Contract and continue until the Services are complete, not to exceed 60 calendar days until completion of design, not to exceed 330 days from date of Bid until contract close-out.
2. The COUNTY agrees to compensate the CONSULTANT for the provision of said Services the sum total not to exceed \$36,800.00 Thirty Six Thousand Eight Hundred Dollars for the "Design Fee" plus \$12,300.00 Twelve Thousand Three Hundred Dollars for the "Construction Administration Services".
3. The Fee shall be paid within thirty (30) days of receipt and approval of CONSULTANT'S invoice for the Services, which Fee is payable in accordance with the following schedule:
  - (i) \$36,800.00 for Design and Construction Documents payable in installments as a percent of completion.
  - (ii) \$1,230.00 upon completion of Bidding
  - (iii) \$1,845 upon completion of Submittal Review.
  - (iv) \$ 9,225.00 for the Construction Administration payable in installments as a percent of completion

Total        \$49,100.00
4. Reimbursables are not included in the Contract. Ordinary reimbursable costs associated with design services will be paid by the COUNTY separately and the COUNTY reserves the right to self perform reproduction as well as employ any specialty consultants that may be needed in the course of this project. Reimbursable items must be approved in advance by the COUNTY with detailed receipts to expenses listed below:
  - (i) Expenses for pre-approved out-of-town travel, including transportation, meals and accommodations, in accordance with the limits contained in the COUNTY'S then-current travel policy;
  - (ii) Expenses of reproductions, postage, shipping and handling of drawings, specifications and other documents, excluding reproductions for the office use of the CONSULTANT; and
  - (iii) Project expenses for specialty consultants employed by the CONSULTANT subject to prior approval by the COUNTY.
  - (iv) Plan review fees and similar charges paid for securing approval of authorities having jurisdiction and other reviewing bodies with control of the design.

The CONSULTANT shall not be reimbursed for the expenses listed in the following subparagraphs:

- (v) Expenses of in-town travel to and from the site;
- (vi) Overhead or general operating expenses of the CONSULTANT'S office, except that if construction of the Services is not complete within twelve (12) months from the date the construction is bid, through no fault of CONSULTANT, CONSULTANT shall be entitled to charge COUNTY the additional costs of construction administration at CONSULTANT'S standard hourly rates. CONSULTANT agrees to obtain the COUNTY'S prior written consent to any increased costs to the Services subject to this provision.

### **III. GENERAL CONDITIONS**

The parties further agree as follows:

#### **1. CONTROL**

All Services by the CONSULTANT will be performed in a manner satisfactory to the COUNTY, and in accordance with the generally accepted business practices and procedures of the COUNTY.

#### **2. CONSULTANT'S PERSONNEL**

The CONSULTANT certifies that it presently has adequate qualified personnel to perform all Services required under this Contract. All work performed during the Term of this Contract will be supervised by the CONSULTANT. The CONSULTANT further certifies that all of its employees assigned to serve the COUNTY have such knowledge and experience as required performing the duties assigned to them. Any employee of the CONSULTANT who, in the opinion of the COUNTY, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the Services under this Contract.

#### **3. INDEPENDENT STATUS**

- a. Nothing in this Contract shall be deemed to represent that the CONSULTANT, or any of the CONSULTANT's employees or agents, are the agents, representatives, or employees of the COUNTY. The CONSULTANT will be an independent Contractor over the details and means for performing the Services under this Contract. Anything in this Contract which may appear to give the COUNTY the right to direct the CONSULTANT as to the details of the performance of the Services under this Contract or to exercise a measure of control over the CONSULTANT is solely for purposes of compliance with local, state and federal regulations and means that the CONSULTANT will follow the desires of the COUNTY only as to the intended results of the scope of this Contract.

- b. It is further expressly agreed and understood by CONSULTANT that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the COUNTY; that CONSULTANT has been retained by the COUNTY to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for the Services performed (not wages) and that invoices submitted to the COUNTY by CONSULTANT for the Services performed shall be on the CONSULTANT's letterhead.

#### 4. REPORTS.

CONSULTANT shall prepare and submit quarterly reports of its activities, funded under this Contract, to the originating department and the Contract Administration Department of the COUNTY. The reports shall include an itemization of the use of COUNTY's funds, inclusive of specific Services delivered. Any such reports provided to the COUNTY shall be prepared with the understanding that the COUNTY may make such reports available to the public. The quarterly reports and all books of account and financial records that are specific to the work performed in accordance with this Contract may be subject to audit by the Director of the Division of Administration and Finance of the COUNTY. The COUNTY shall have the right to withhold future disbursement of funds under this Contract and any future Contracts until this provision has been met.

#### 5. TERMINATION OR ABANDONMENT

- a. It shall be cause for the immediate termination of this Contract if, after its execution, the COUNTY determines that:
  - i) either the CONSULTANT or any of its principals, partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting.
  - ii) CONSULTANT subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Contract without the COUNTY's consent or approval.
  - iii) CONSULTANT has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of CONSULTANT assets.
- b. The COUNTY may terminate the Contract upon five (5) days written notice by the COUNTY or its authorized agent to the CONSULTANT for CONSULTANT's failure to provide the Services specified under this Contract.

- c. This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination (the "Termination Date"). In the event of such termination, the CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date; however, CONSULTANT shall not be reimbursed for any anticipatory profits that have not been earned as of the date of the Termination Date. All work accomplished by CONSULTANT prior to the Termination Date shall be recorded and tangible work documents shall be transferred to and become the sole property of the COUNTY prior to payment for the Services rendered.
- d. Notwithstanding the above or any section herein to the contrary, CONSULTANT shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Contract by CONSULTANT and the COUNTY may withhold any payments to CONSULTANT for the purpose of setoff until such time as the exact amount of damages due the COUNTY from CONSULTANT is determined.

6. COMPENSATION FOR CORRECTIONS

No compensation shall be due or payable to CONSULTANT pursuant to this Contract for any CONSULTANT's Services performed by the CONSULTANT in connection with effecting of corrections to the design of the Services, when such corrections are required as a direct result of negligence by the CONSULTANT to properly fulfill any of his obligations as set forth in this Contract.

7. SUBCONTRACTING, ASSIGNMENT OR TRANSFER

- a. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the CONSULTANT from performance of the Services under this Contract. The COUNTY shall not be responsible for the fulfillment of the CONSULTANT's obligations to its transferors or subcontractors.
- b. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

8. CONFLICT OF INTEREST

The CONSULTANT covenants that it has no public or private interest, and will not acquire directly or indirectly any interest which would conflict in any manner with the performance of the Services. The CONSULTANT warrants that no part of the total Contract Fee amount provided herein shall be paid directly or indirectly to any officer or employee of the COUNTY as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the

CONSULTANT in connection with any work contemplated or performed relative to this Contract.

9. COVENANT AGAINST CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the COUNTY will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

10. EMPLOYMENT OF COUNTY WORKERS

The CONSULTANT will not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or in the employ of the COUNTY.

11. ACCESS TO RECORDS

During all phases of the work and Services to be provided hereunder, CONSULTANT agrees to permit duly authorized agents and employees of the COUNTY to enter CONSULTANT's offices for the purpose of inspections, reviews and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The CONSULTANT will maintain all books, documents, papers, accounting records, and other evidence pertaining to the Fee paid under this Contract and make such materials available at their offices at all reasonable times during the Term of this Contract and for three (3) years from the date of payment under this Contract for inspection by the COUNTY or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof; copies of said records to be furnished if requested.

12. ARBITRATION

Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the CONSULTANT and the COUNTY will be referred to the Shelby County Contract Administrator or its duly authorized representative, whose decision regarding same will be final.

13. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

- a. CONSULTANT shall indemnify, defend, save and hold harmless the COUNTY, and its elected officials, officers, employees, agents, assigns, and

instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the Services hereunder, whether performed by the CONTRACTOR its subcontractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.

- b. CONSULTANT expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the CONSULTANT shall in no way limit the responsibility to indemnify, defend, save and hold harmless the COUNTY or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.
- c. The COUNTY has no obligation to provide legal counsel or defense to CONSULTANT or its subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against CONSULTANT as a result of or relating to performance of the Services under this Contract.
- d. Except as expressly provided herein, the COUNTY has no obligation for the payment of any judgment or the settlement of any claims against CONSULTANT as a result of or relating to performance of the Services under this Contract.
- e. CONSULTANT shall immediately notify the COUNTY, c/o Shelby County Government, Contracts Administration, 160 N. Main Street, Suite 1109, Memphis, TN 38103, of any claim or suit made or filed against CONSULTANT or its subcontractors regarding any matter resulting from or relating to CONSULTANT's performance of the Services under this Contract and will cooperate, assist and consult with the COUNTY in the defense or investigation thereof.

14. GENERAL COMPLIANCE WITH LAWS

- a. If required, the CONSULTANT certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.
- b. The CONSULTANT is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in a manner consistent with accepted professional practice for all services performed. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration

(OSHA) requirements, and the Americans with Disabilities Act (ADA).

- c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract, the CONSULTANT agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

15. NONDISCRIMINATION

The CONSULTANT hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the CONSULTANT on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The CONSULTANT shall upon request show proof of such nondiscrimination, and shall post in conspicuous places available to all employees and applicants notices of nondiscrimination.

16. ENTIRE AGREEMENT

This Contract contains the entire Contract of the parties and there are no other promises or conditions in any other Contract whether oral or written. This Contract supersedes any prior written or oral contracts between the parties.

17. AMENDMENT

This Contract may be modified or amended, only if the amendment is made in writing and is signed by both parties.

18. SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as possible.

19. NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any



document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

20. MATTERS TO BE DISREGARDED

The titles of the several sections, subsections, and paragraphs set forth in this contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.

21. SUBJECT TO FUNDING

This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the Term hereof, then this Contract will be terminated. In the event of such termination, the CONSULTANT shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date.

22. TRAVEL EXPENSES

All travel expenses shall be in accordance with the Shelby County Travel Policy and all receipts shall be submitted with the invoice for payment.

23. NON-LIABILITY FOR CONSULTANT EMPLOYEE TAXES

Neither CONSULTANT nor its personnel are COUNTY's employees, and COUNTY shall not take any action or provide CONSULTANT's personnel with any benefits and shall have no liability for the following:

- a. COUNTY will not withhold FICA (Social Security) from CONSULTANT's payments;
- b. COUNTY will not make state or federal unemployment insurance contributions on behalf of CONSULTANT or its personnel;
- c. COUNTY will not withhold state and federal income tax from payment to CONSULTANT;
- d. COUNTY will not make disability insurance contributions on behalf of CONSULTANT;

- e. COUNTY will not obtain workers' compensation insurance on behalf of CONSULTANT or CONSULTANT's personnel.

24. INCORPORATION OF OTHER DOCUMENTS

- a. CONSULTANT shall provide Services pursuant to this Contract In accordance with the terms and conditions set forth within the Shelby County Request for Proposals/Bids as well as the Response of CONSULTANT thereto, all of which are maintained on file within the Shelby County Purchasing Department and incorporated herein by reference.
- b. It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

25. CONTRACTING WITH LOCALLY OWNED SMALL BUSINESSES

The CONSULTANT shall take affirmative action to assure that Locally Owned Small Businesses that have been certified by Shelby County Government are utilized when possible as sources of supplies and equipment, construction and services.

26. LIVING WAGE ORDINANCE AND PREVAILING WAGE ORDINANCE

Living Wage - In accordance with Ordinance Number 328, commonly referred to as the Living Wage Ordinance, all persons/entities engaged in service contracts with the County, including but not limited to both prime and subcontractors, shall pay a Living Wage to employees for all work performed on said service contract, as defined in the Living Wage Ordinance. Proof of such compensation must be evidenced as required in the Living Wage Ordinance.

Prevailing Wage – Any firm, individual, partnership or corporation awarded a contract by the COUNTY for the construction of, improvement, enlargement, alteration or replacement of a public work or project in excess of \$500,000 and any subcontractors of such public work or project in excess of \$100,000 ("Recipient") shall be required to pay local prevailing wages and benefits for laborers, mechanics, or other listed classifications as defined by the Tennessee Department of Labor. The prevailing wage rate shall be the most current State of Tennessee prevailing wage established by the Tennessee Department of Labor For Region 1 (Shelby County). The benefit rates shall be the most current rates described in the published schedule by the Memphis and West Tennessee Building and Construction Trades Council, except as otherwise provided in the Shelby County Code of Ordinances. The applicable rate shall be determined at the time that the project is awarded. In instances where Prevailing wage applies, Prevailing Wage will override the Living Wage requirement.

27. RIGHT TO REQUEST REMOVAL OF CONSULTANT's EMPLOYEES

The COUNTY may interview the personnel CONSULTANT assigns to COUNTY's work. CONSULTANT shall have the right, at any time, to request removal of any employee(s) of CONSULTANT, whom COUNTY deems to be unsatisfactory for any reason. Upon such request, CONSULTANT shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

28. INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

29. DISCLOSURE OF REPORTS, DATA OR OTHER INFORMATION

Notwithstanding anything to the contrary contained herein or within any other document supplied to COUNTY by CONSULTANT, CONSULTANT understands and acknowledges that COUNTY is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to COUNTY by CONSULTANT due to Services performed pursuant to this Contract is subject to being divulged as a public record in accordance with the laws of the State of Tennessee.

30. ORGANIZATION STATUS AND AUTHORITY

- a. CONSULTANT represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.
- b. The execution, delivery and performance of this Contract by the CONSULTANT has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of CONSULTANT, any provision of any indenture, agreement or other instrument to which CONSULTANT is a party, or by which CONSULTANT's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

31. INSURANCE REQUIREMENTS

- a. The CONSULTANT shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such

insurance as will protect the County from claims which may arise out of or result from the CONSULTANT's operations under the Contract, whether such operations are performed by himself or by any sub consultants or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the CONSULTANT or sub consultant may be liable.

- b. The insurance required shall be written for not less than any limits of liability specified or required by law, whichever is greater. Shelby County Government, its elected officials, appointees and employees will be named as additional insured. All policies will provide for thirty (30) days written notice to COUNTY of cancellation or material change in coverage provided. The CONSULTANT will maintain throughout the life of this Contract insurance, through insurers rated A or better by A.M. Best, in the following minimum requirements:
  - i) Commercial General Liability Insurance- \$1,000,000.00 limit per occurrence for bodily injury and property damage/\$1,000,000.00 personal and advertising injury/\$2,000,000.00 General Aggregate/\$2,000,000.00 Products-Completed Operations Aggregate. The service provider should indicate in its bid whether the coverage is provided on a claims-made or preferably on an occurrence basis. The insurance shall include coverage for the following:
    - a) Premises/Operations
    - b) Products/Completed Operations
    - c) Personal Injury
    - d) XCU coverage, where applicable
    - e) Contractual Liability
    - f) Independent Contractors
    - g) Broad Form Property Damage
  - ii) Business Automobile Liability Insurance - \$1,000,000.00 each accident for bodily injury and property damage. Coverage is to be provided on all:
    - a) Owned/Leased Autos
    - b) Non-owned Autos
    - c) Hired Autos
  - iii) Workers Compensation And Employer's liability Insurance – Workers Compensation statutory limits as required by Tennessee law. This policy should include Employers' Liability coverage for \$500,000.00 per accident.
- c. CONSULTANT shall provide County with a current copy of the Certificate of Insurance at the time of contracting and shall maintain said insurance during the entire Contract period as well as provide renewal copies on each anniversary date. The certificate holder is to read:  
Shelby County Government

Purchasing Department  
160 N. Main, Suite 550  
Memphis, TN 38103

- d. Upon termination or cancellation of insurance currently in effect under this Contract, the CONSULTANT shall purchase an extended reporting endorsement and furnish evidence of same to the County.

32. NOTICE

Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered either in person to the COUNTY's authorized agent or by First Class or U.S. Mail to the addresses set forth below, or to such other person or address as either party may designate in writing and deliver as herein provided:

COUNTY: Shelby County Government  
Support Services  
584 Adams  
Memphis, Tennessee 38103  
Attn.: Mr. Diep Tran

*and*

Shelby County Government  
Contract Administration  
160 N. Main St., Suite 550  
Memphis, Tennessee 38103

VENDOR: *MEDFAC Engineering, LLC*  
*ATTN: Ms. Linda Hubbard*  
*1209 Dovecrest Road*  
*Memphis, TN 38134*

33. HIPAA

CONSULTANT warrants to the COUNTY and State that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract. CONSULTANT warrants that it will cooperate with the COUNTY and State in the course of performance of the Contract so that all parties will be in compliance with HIPAA, including cooperation and coordination with COUNTY and State privacy officials and other compliance officers required by HIPAA and its regulations. CONSULTANT will sign any documents that are reasonably necessary to keep the State and the COUNTY in compliance with HIPAA.

34. ORDER OF APPLICATION OF CONTRACT AND SUPPORTING EXHIBITS

In the event of a discrepancy or conflict between the terms of this Contract, the

Request for Proposal (Exhibit C), and/or the Response to the Proposal (Exhibit B), the terms of this Contract shall control followed by the Request for Proposal (Exhibit C) and, lastly, the Response to the Proposal (Exhibit B).

35. INCORPORATION OF OTHER DOCUMENTS

It is agreed that the following documents are made a part of and incorporated fully into this construction Contract:

- A. Insurance Certificate
- B. Bid Specifications (RFP #10-008-14A, Exhibit "C")
- C. Contractor's Bid/Proposal (Exhibit "B")
- D. List of subcontractors who will be performing work on project with attached required information (Exhibit "D") .

**IN WITNESS WHEREOF**, the parties hereto have set their signatures for the purposes contained herein, on the day and date first above written.

**APPROVED AS TO FORM  
AND LEGALITY:**

**SHELBY COUNTY GOVERNMENT**

\_\_\_\_\_  
Contract Administrator/  
Assistant County Attorney

\_\_\_\_\_  
Joe Ford., Interim Mayor

**MEDFAC Engineering, LLC**

\_\_\_\_\_  
Rodney C. Hubbard, Principal

CORPORATE ACKNOWLEDGMENT

STATE OF TENNESSEE  
COUNTY OF SHELBY

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared Rodney C. Hubbard, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be principal or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the Limited Liability Company, the within named bargainor, a corporation, and that he as such Company authorized representative, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as Partner.

WITNESS my hand and official seal on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## **EXHIBIT “A”**

### **PHASE 1 - DESIGN**

1. Review the Facility drawings of the original construction and any studies, reports related to the facility provided to CONSULTANT by the COUNTY.
2. Conduct site inspections of the Facility to sufficiently determine the extent of elevator modernization that is required.
3. Based on the mutual agreement of the County and the Consultant on the scope of the Project, design of elevator modernization forms the basis of the work under this project.

### **PHASE 2 - CONSTRUCTION DOCUMENTS**

4. Prepare plans and specifications describing all work, equipment and labor required for the successful renovation of the elevators to comply with Title II requirements and provide efficient operation.
5. Assist the COUNTY in the preparation of the necessary bidding information, bidding forms, and the Conditions of the Contract required to bid the Project (the “Construction Documents”).

### **PHASE 3 - CONSTRUCTION ADMINISTRATION**

6. Assist the COUNTY in reviewing responses to any bid solicitation conducted by the COUNTY regarding any recommendations related to the Project.
7. Review submittals and provide contract administration services during the construction of the Project.
8. Keep the COUNTY informed of the progress and quality of the construction and endeavor to guard the COUNTY against defects and deficiencies in the work of the CONTRACTOR.
9. Conduct inspections to determine the Dates of Substantial Completion and Final Completion of the construction work.



# **SCOPE OF WORK**

## **Design Services**

- Complete renovations of the elevators including associated hoistway ventilation, electrical power, fire alarm interface, preparation for emergency power, equipment room improvements, ADA upgrades.
- Refurbish the elevators in their entirety, eliminating the motor generators and relay based controllers
- Reuse providing any appropriate refurbishment to the elevator structural supports, rails, car frame/platform, counterweight, buffers, geared hoisting machine, sheaves. Wire ropes will be replaced as needed as a unit cost allowance.
- Convert to AC drives with solid state controllers, all new governors.
- Refurbish all entrances at every landing, provide new car interiors, call stations, hall indicators. Doors and entrance framing will be wrapped with new stainless steel shells or painted metal as determined during design.
- New door operators, sills and door guides with heavy duty sills to withstand abuse and heavy loading.
- Complete car interior replacement including all walls, the finished floor and ceiling. Basis of design will match the Administration Building elevators.
- Separate the elevator machine rooms and hoistways from adjacent spaces by fire rated construction and eliminate all components that are not a part of the elevator equipment. Correct all access issue for gaining access to the machine rooms.
- Add air conditioning to the elevator equipment room and cut in the ventilation opening at the top of the hoistway. Refinish and renovate lighting in the machine rooms.
- Restore any required insulation or fire rated construction that is exposed due to asbestos abatement performed by others. Asbestos testing and any related abatement design is not included.
- Design an alcove to provide unimpeded access to the ADA compliant car at the present loading dock.
- Prepare cost estimate.

## **Construction Administration Services**

- Assist with bidding, perform submittal review and process close-out documents.
- Hold construction meetings and monitor construction progress relative to scheduling.
- Coordinate and arrange Contractor access.
- Provide all correspondence and serve as liaison between County and Contractor.
- Review and certify all requests for payment.
- Provide sketches as needed to direct the Contractor on any minor changes and clarifications.
- Issue all minutes and directives from construction meetings.
- Provide as-built drawings, electronic files.